

Remarks

Amendments to the Claims:

Claim 14 has been amended as shown in the above detailed listing of claims to correct a typographical error in a previous amendment to that claim. Specifically, in the previous amendment, the number of the claim from which claim 14 depended was inadvertently omitted. The amendment to claim 14 herein corrects that omission.

History of the Subject Application:

The subject application is a continuation application with which a preliminary amendment was filed. The preliminary amendment put the claims of the subject application into the form presented above in the detailed listing of claims except for the amendment herein to claim 14 for correction of a typographical error. There is only one independent claim, which is claim 1.

The Examiner issued a restriction requirement on the subject application. The restriction requirement issued in an Office action that was mailed on 05/07/2004. In the restriction requirement, the Examiner stated, “[t]his application contains claims directed to the following patentably distinct species of the claimed invention: species 1, shown in figure 3; species 2, shown in figures 4-8; species 3, shown in figures 9-10; species 4 shown in figures 11-18.”

The Examiner stated further in the restriction requirement that the "Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none are generic."

The Examiner stated still further in the restriction requirement that the "Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election."

The Examiner states yet further in the restriction requirement that the "Applicant is advised that the reply to this requirement to be complete must include

1 an election of the invention to be examined even though the requirements be
2 traversed (37 CFR 1.143)."

3 On June 07, 2004, the Applicants filed a reply to the restriction requirement.
4 In the reply to the restriction requirement, the Applicants traversed the restriction
5 requirement on the grounds that a *prima facie* case for restricting the claims of the
6 application had not been established; and that the claims do not meet the general
7 test as to when claims are restricted. The arguments for traverse were presented in
8 detail in the Applicants' reply to the restriction requirement.

9 In the Applicants' reply to the restriction requirement, the Applicants elected
10 species 4 and indicated which claims that the Applicants considered readable on the
11 elected species 4, in accordance with the requirements of the restriction
12 requirement. Specifically, the Applicants indicated that all claims were readable on
13 the elected species 4.

14 The Examiner then issued a response to amendment in an Office action that
15 was mailed on 06/29/2004. In the response to amendment, the Examiner stated that
16 "[t]he reply filed on 6/10/04 is not fully responsive to the prior Office Action because
17 of the following omission(s) or matter(s): Applicant elected species 4 shown in
18 figures 11-18. Species 4 shown in figures 11-18 does not read on any claim."

19 On or about June 11, 2004, the Applicants' representative, attorney Tom
20 Olson, initiated a telephone conference with the Examiner in an attempt to gain an
21 understanding of a possible resolution to the issues raised by the Examiner in both
22 Office actions. However, no resolution was attained.

23 **Nonresponsiveness of Applicants' Reply to Restriction Requirement:**

24 The purpose of this reply is to address and reply to the Examiner's holding
25 that the Applicants' reply to the restriction requirement was nonresponsive.

26 The Applicants respectfully contend that the Applicants' reply to the restriction
27 requirement was fully responsive in accordance with all of the requirements set forth
28 by the Examiner in the restriction requirement.

29 Specifically, as the Examiner has indicated, a reply to a restriction
30 requirement, in order to be responsive and complete, must include:

31 1) an identification of the species that is elected consonant with the restriction
32 requirement; and,

1 2) a listing of all claims readable thereon.

2 The Applicants respectfully contend that these requirements were fully met in
3 the Applicants' reply to the restriction requirement. Specifically, the Examiner
4 indicated in the restriction requirement that the application contained claims directed
5 to the following patentably distinct species of the claimed invention: species 1,
6 species 2, species 3, and species 4. The Applicants elected species 4. The
7 Applicants also provided a listing of all claims readable on species 4.

8 Accordingly, for the reasons set forth above, the Applicants contend that the
9 Applicants' reply to the restriction requirement was complete and fully responsive
10 because the Applicants complied with the requirements to elect one of the species
11 and to provide a listing of claims readable on the elected species. The Applicants
12 therefore respectfully request that the Examiner withdraw the holding that the
13 Applicants' reply to the restriction requirement was nonresponsive.

14 Traverse of Examiner's Characterization of the Claims:

15 Notwithstanding the above arguments, the Applicants respectfully traverse the
16 Examiner's characterization of the claims, which characterization is used to support
17 the Examiner's holding that species 4 does not read on any claim.

18 In the Office action mailed 06/29/04, the Examiner states, "[c]laim 1 includes
19 'a guide that allows . . . substantially constraining movement . . .' The disclosed
20 guides, reference number 134, see figure 5, constrain movement along paths 132,
21 131. The elected species 4 can not be operated with such guides. See figures 11-
22 13. The elected species 4 is incompatible with claim 1 and incompatible with the
23 guides disclosed in the specifications and drawings."

24 The Applicants respectfully disagree with the Examiner's contention that
25 species 4, shown in figures 11-18 can not be operated with the guides 134 shown in
26 figure 5 and included in claim 1.

27 The Applicants concede that the guides 134 constrain movement along paths
28 131 and 132. Also, the Applicants acknowledge that figures 11-13 show that the
29 action of the alignment members 171, 172 against the first and second protrusions
30 117, 118 can act to move the first object 110 and the second object 120 closer to
31 one another along a direction that is substantially perpendicular to paths 131, 132.

1 However, the Applicants contend that such capability of the alignment
2 members 171, 172 is compatible with use of the first and second objects 110, 120
3 with the guides 134. Specifically, the guides 134 can be positioned relative to the
4 first and second objects 110, 120 so that, when the first and second objects are
5 placed into the guides, the guides act to align and/or position the first and second
6 objects relative to one another as shown specifically in figure 13. In that case, the
7 first and second objects 110, 120 would not require substantial alignment and/or
8 movement along any direction perpendicular to the paths 131, 132. That is, properly
9 positioned guides 134 can act to preposition the first and second objects 110, 120
10 relative to one another so that operation of the alignment members 171, 172 against
11 the first and second protrusions 117, 118 would not result in movement of the first
12 and second objects in any direction other than that of the paths 131, 132.

13 Stated otherwise, figures 11 and 12 show use of the first and second objects
14 110, 120 without use of the guides 134. Without use of the guides 134, it is possible
15 that the first and second objects 110, 120 would be positioned as shown in figures
16 11 and/or 12, and would therefore require alignment along a direction substantially
17 perpendicular to the paths 131, 132.

18 However, as is explained above, use of properly positioned guides 134
19 relative to the first and second objects 110, 120 would prevent the improper
20 positioning of the first and second objects relative to one another as shown in figures
21 11 and 12. That is, use of the guides 134 with species 4 would preclude the need for
22 the alignment members 171, 172 to move the first and second objects toward one
23 another along a given direction substantially perpendicular to the paths 131, 132,
24 because the guides 134 would provide proper positioning of the first and second
25 objects along the given direction as shown in figure 13.

26 That is, use of the guides 134 with the first and second objects 110, 120 of
27 species 4 can result in proper positioning of the first and second objects as shown in
28 figure 13. In that case movement of the first and second objects as is implied by
29 figures 11 and 12 would not be required.

30 In other words, just because the alignment members 171, 172 are capable of
31 aligning the first and second objects in a given direction that is substantially
32 perpendicular to the paths 131, 132, it does not automatically follow that such
33 alignment in the given direction must always occur or that such alignment is required

1 to occur. For example, if the guides 134 act to properly position the first and second
2 objects 110, 120 of species 4 along one or more directions perpendicular to the
3 paths 131, 132, then no further alignment in such directions are required or
4 performed by action of the alignment members 171, 172.

5 However, the alignment members 171, 172 are also configured to provide
6 alignment of the first and second objects 110, 120 along the paths 131, 132, if
7 required. Such alignment of the first and second objects by the alignment members
8 171, 172 is consistent with use of the guides 131, 132, because the guides allow
movement of the first and second objects along paths 131, 132.

9 For the reasons set forth above, the Applicants contend that the elected
10 species 4 shown in figures 11-18 can be used with the guides 134 shown in figure 5
11 and included in claim 1. Accordingly, the Applicants contend that species 4 reads on
12 claim 1, and therefore, that the Applicants' election of species 4 in reply to the
13 restriction requirement was fully responsive. The Applicants furthermore affirm the
earlier election of species 4 with claims readable thereon being claims 1-8, 10-16, 21
and 22.

14

15 Summary

16 The Applicants believe this reply constitutes a full and complete response to
17 the Office action mailed 06/29/2004. The Applicants further believe that claims 1-8,
18 10-16 and 21-22 are in allowable form, and therefore request timely allowance of
those claims. In the alternative, further action on the merits is requested.

19 The Examiner is respectfully requested to contact the below-signed attorney if
20 the Examiner believes this will facilitate prosecution toward allowance of the claims.

21
22 Respectfully submitted,

23
24 Thom Ives, Darrel Poulter, and

Andy Petersen, Applicants

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